THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 5436 of 2007

Dated: 16.3.2007

Between:

Ch.Sanjeevaiah.

.... PETITIONER

AND

The Depot Manager,
APSRTC, Warangal Depot, Warangal.

.....RESPONDENT

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 5436 of 2007

Order:

This writ petition is filed seeking a Mandamus declaring the action of the respondent in issuing the proceedings dated 22.09.1990, imposing major punishment of deferment of one annual increment of the petitioner for a period of one year with cumulative effect, as illegal and arbitrary.

The petitioner is employed as a Conductor in APSRTC. He was issued a charge sheet, dated 28.06.1990, alleging that he misbehaved with a lady passenger on 17.5.1990 on route Warangal at Palkurthy and that he was required to submit the explanation, as to why necessary disciplinary action shall not be taken against him, for which he submitted explanation denying the charges framed against him. The respondent, without conducting any regular departmental enquiry and without affording any opportunity, passed the impugned order imposing punishment of deferment of the annual increment for a period of one year with cumulative effect. Aggrieved by the same, the petitioner filed the present writ petition.

Learned counsel for the petitioner contends that stoppage of increments of an employee with cumulative effect is a major penalty, and the same cannot be imposed without conducting regular departmental enquiry as contemplated under the APSRTC Employees' (CC&A) Regulations (for short 'the Regulations'). In support of his contention, learned counsel relied on the judgment of the

Supreme Court in "***Kulwanth Singh Gill v. State of Punjab***[1]".

On the other hand, learned Standing Counsel appearing on behalf of the respondents-Corporation submitted that the Depot Manager, the respondent herein, after considering the entire material together with the explanation submitted by the petitioner, has passed the impugned order, hence, no interference is called for therewith. He further submits that the cut off date fixed for application of the principle laid down by the Supreme Court in ***Kulwanth Singh Gill v. State of Punjab*** (1 supra), is 01.10.1990, and since the impugned order is dated 22.09.1990 i.e. much before passing of the said judgment, the said principle cannot be applied to the present case.

Heard the learned counsel for both the parties and perused the material available on record.

It is an admitted fact that respondent No.2, by impugned order dated 22.09.1990, imposed punishment of deferment of annual increment for a period of one year with cumulative effect, which is a major punishment. In ***Kulvanth Singh Gill's Case*** (1 supra), which was rendered on 13.09.1990, the Apex Court held that stoppage of increments with cumulative effect is a major penalty and it cannot be imposed without conducting the departmental enquiry. The cut off date fixed for application of the said principle is 01.10.1990. Since the impugned order is dated 22.09.1988 i.e., much before passing of the said judgment, the said principle cannot be applied to the present case. In that view of the matter, I see no merits in the writ petition, and the same is liable to be dismissed.

Accordingly, the writ petition is dismissed. No costs.

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N.V. RAMANA, J.

Date: 16.03.2006
msv

[1] 1991 Supp (1) SCC 504